PETROLEUM TANK RELEASE COMPENSATION BOARD
MINUTES
Business Meeting
March 31, 2008
Department of Environmental Quality
Last Chance Gulch Building Room 112, 1100North Last Chance Gulch
Helena, MT

Board members in attendance were Theresa Blazicevich, Greg Cross, Karl Hertel, AJ King, Adele Michels, Steve Michels, and Roger Noble. Also in attendance were Terry Wadsworth, Executive Director, and Paul Johnson, Board attorney.

Presiding Officer Cross called the meeting to order at 10:04 a.m.

Approval of Minutes – January 28, 2008 and February 25, 2008

Mr. King asked for clarification of the statement by Mr. Wadsworth noted on page 5 of the minutes that statistically it would be better for Fund solvency to increase the co-pay to 50% of the first $50,000 than to go to an 80/20 split of all costs on a release. That statement did not seem logical to Mr. King. Mr. Wadsworth noted that the board's average cleanup cost was $70,000 per release, which is not much above $50,000. If the cleanup cost for most releases was close to the million-dollar cap, an 80/20 split would result in more co-pay contribution.

Bill Rule, Underground Storage Tank Program, asked that the last sentence of paragraph four on page 5 be revised to read as follows: "Out-of-service tanks are those not in use, but about which the UST program has not been notified of their inactive status." This change refers to statements Mr. Rule made at the January 28, 2008 meeting.

Ms. Blazicevich moved to accept the minutes for the January 28, 2008 and February 25, 2008 Board meetings with the change to the January 28, 2008 minutes suggested by Mr. Rule. Mr. Hertel seconded. **The motion was unanimously approved.**

Claim Adjustment – Michaels Exxon, Kalispell – Fac #15-02230, Rel #4587

Mr. Wadsworth told the Board that five claims totaling $650,952.23 have been filed for release #4587, which is eligible. The claims are currently suspended awaiting a determination by the board of the adjustment percentage that will be applied to claims for this release as a result of violations occurring at the site. He reminded the board that the staff has recommended 50% adjustment to all claims for this release. The recommendation stems from the fact that the owner/operator did not report the occurrence of alarms on May 2, 2007 until after the release was discovered on July 25, 2007, a period of 84 days.

Mr. Wadsworth provided a summary of Board actions takenin this matter at its November meeting. The Board determined the release eligible at that meeting because the owner/operator had an operating permit and was operating in accordance with §75-11-509, MCA, as required by §75-11-308(1)(b)(i). There was discussion at the meeting concerning possible adjustments to reimbursement as allowed by 75-11-309(3)(b)(ii), MCA and ARM 17.58.336(7). The owner was out of compliance with 75-11-309, MCA at the time. Because DEQ was conducting an investigation into the release and considering an enforcement action against the owner based on the events surrounding the release, the Board tabled the matter of adjustments to reimbursement and suspended payment on any incoming claims for the release until additional information became available and the matter could be decided.

DEQ has completed its investigation and issued an Administrative Order (AO) to the operator, Michael's Convenience Stores, Inc. The order includes a monetary penalty. There were two violations; failure to conduct line release detection monitoring, and failure to report a suspected release. The Board staff has not changed its recommendation as a result of the investigation and Order. The staff recommends 50% reimbursement, based on the failure to notify for a period of 83 days. If the owner/operator does not pay the penalty within the required time, the Board has the option to apply an additional adjustment to reimbursement of claims for the release.

John Arrigo, Administrator of DEQ's Enforcement Division, provided clarification on the enforcement process. An AO was issued on March 19, 2008, assessing a penalty. The party has 30 days to appeal the AO to the Board of Environmental Review. If it is not appealed, the penalty must be paid within 45 days of issuance of the AO. If it is appealed, the requirements of the order are stayed until either there is a contested case hearing before the BER and the issues decided, or a settlement is negotiated and an Administrative Order on Consent is issued. The party does not return

to compliance until that AOC is signed. In summary, the party has 30 days to appeal, and an additional 15 days to pay the penalty, if the AO is not appealed.

Paul Johnson, Board attorney provided an explanation of the Board's authority to adjust the reimbursement percentage. §75-11-309, MCA allows two avenues for sanctioning noncompliant conduct by an owner/operator. The one used by the staff to recommend 50% reimbursements allows the board to make adjustments to reimbursement rates based on a violation by an owner/operator of either §75-11-309, MCA or any rule adopted under that statute. In this case, the violation the staff is using is the failure of the owner/operator to provide timely notification to the Department of the release. The other avenue, independent of the first one, is those instances where the Department issues an administrative order against the owner/operator. When such an order is issued, under the Board's rule the triggers for determining the amount of the sanction are the date the order was issued and the date that DEQ issues, in writing, a notice that the violation has been cleared up. In this matter the Board will not know what kind of sanction could be imposed under the administrative order for some time because the closing date has not occurred. The Board currently has discretion to go forward under the first option, a violation having been found, to impose a sanction under the Board's rule. The period of non-compliance begins on the date upon which the Board determines the owner/operator has not complied with the rule and the period of non-compliance ends on the date upon which the Board determines the owner/operator has returned to compliance. Staff isolated the beginning date of this violation as the documented date that the alarms first started going off, May 2, 2007 and the ending date as the date DEQ finally got notice of the release on July 25, 2007. ARM 17-58-336 provides a table to be used to determine the amount of sanction based on the number of days out of compliance. The staff used that table to recommend a sanction of 50% reimbursement. The Board can revisit the situation after the Administrative Order is concluded, if the Board determines it is called for.

Mr. Johnson remarked that he does not believe the AO is open for compliance violation now, because the end date of the AO is not determined yet. For now the Board can use it's independent discretion under statute and rule to apply the 50% rate based on the violations that have been brought to its attention. If at a later date when the AO date issue is resolved, the Board can bring its discretion to bear on the other avenue of sanction. In the mean time claims would be paid in accordance with whatever sanction the Board applies.

Tim Bechtold addressed the Board as representative of Beargrass Holdings, the owner of the property. He emphasized that he does not represent the operator of the facility, Michael's Convenience Stores, Inc. Beargrass Holdings hired PBS&J to conduct the cleanup as soon as it was discovered, and is the party that will be sanctioned if claim reimbursements are reduced to 50%. Beargrass is <u>not</u> a party to the AO, and is not culpable according to the AO. Beargrass is not responsible for the release. He reminded the Board that Beargrass Holdings purchased the property at the end of June 2007, the release was discovered approximately three weeks later on July 25, 2007 and Beargrass began immediate action to clean up the contamination. The operator, who is responsible for the release, is not the one paying the bills. The $650,000 in claims filed to date does not include approximately $150,000 of costs incurred by the City of Kalispell that will need to be repaid, as well. PBS&J has placed a lien on the property. He urged the Board to act immediately on reimbursement and not wait for completion of the Administrative Order. In the interest of fairness, he also asked the Board not to reduce reimbursements further than the 50% recommended by the Board's staff, and suggested they consider raising the reimbursement percentage.

Charlie Vandam, PBS&J, echoed Mr. Bechtold's comments and concerns. He noted that PBS&J has been holding payments to subcontractors as a result of the delay in claim reimbursements. In addition, some contractors are holding payments to PBS&J on unrelated projects or refusing to work with them on new projects. The situation is not only affecting PBS&J financially but their business relationships with some subcontractors are being damaged. He asked that the Board take action immediately, that the Board consider not reducing the staff's recommendation of 50% and that the Board consider increasing the reimbursement percentage.

Presiding Officer Cross stated for the record that this matter was an emergency response to a known release, and that PBS&J was contacted to assist in the cleanup. There was not time to evaluate costs and develop a plan of action.

Mr. Vandam stated that the City of Kalispell was the first responder, but turned over the project to PBS&J after two days. PBS&J has handled the fuel recovery and cleanup work since the first couple of days. They have worked hand-in-hand with DEQ, but the directions have come from DEQ, not from PBS&J. The city sewer, storm water, and water systems were affected, as well as there being a release into Ashley Creek and its tributaries. Fuel had to be recovered from all of those areas. They were directed to do whatever was necessary to clean up a fuel leak.

Michael Hayes, Michael's Convenience Stores, Inc., echoed the request that the reimbursement issue be decided immediately. He also asked that the Board consider increasing the reimbursement percentage. He stated that the Board has discretion to consider events that were beyond the operator's control when making adjustments to the reimbursement percentage. He noted that the information that the May 2, 2007 alarm was turned off by someone who did not work for

Michael's Convenience Stores, and over whom he had no control, was not included in the summary of events provided to the Board. He also feels the fact that the gaskets were not in the correct position was beyond his control, as he did not install, nor does he conduct maintenance on, the system. In addition, the fact that the piping was improperly installed and had a kink in it was not something he could control. The system was professionally inspected after it was installed and the matter was not raised. He again asked the board to consider increasing the percentage of reimbursement, after taking into account the events that were beyond his control. He stated that more than 99.9% of the loss occurred in the few days just before the release was reported. In his view, he reported the release as soon as he knew about it. Michael's Convenience Stores cooperated in every way and acted as quickly as possible. He hoped his cooperation would be taken into consideration, as would a shorter timeframe for the release occurrence.

Dan Kenney, Enforcement Division case manager for the site, stated for the record that the alarm system was in alarm status on May 2, and that leak detection monitoring on the underground piping was not being conducted, as is stated in the administrative order. If leak detection monitoring had been conducted appropriately, the owner or operator would have seen the alarm on May 2. He noted that Mr. Hayes had provided the detection monitoring records when requested. Upon review of available records it was discovered that beginning in October 2006, leak detection monitoring for underground piping was not available for nine of the next 10 months. A suspect release had occurred on May 2, 2007 that was not responded to, and in the Department's view, if release detection monitoring had been conducted the release would not have been as severe. He also clarified that the administrative order assesses a total penalty of $37,188. The Department exercised discretion in calculating the penalty, assessing for only five days of violation, rather than the 72 days that were possible. In addition, the Department chose to assess the penalty for failure to notify of the suspected release for a period of two weeks, rather than the full 83 days possible. The Department has offered to suspend $31,000 of that penalty in consideration of the operator paying $6,090 penalty for the two violations noted in the administrative order.

Ms. Blazicevich moved to accept the Board staff recommendation of 50% reimbursement. Ms. Michels seconded. Mr. King and Mr. Noble abstained from the vote. **The motion was approved.**

Eligibility Ratification

Mr. Wadsworth informed the Board of the eligibility applications before the Board. The staff recommended five releases be determined eligibility (see table below).

Board Staff Recommendations Pertaining to Eligibility
From January 17, 2008 thru March 19, 2008

Location	Site Name	Facility ID #	DEQ Release # Release Year	Eligibility Determination – Staff Recommendation Date
Homestead	Herman Oil Inc	46-11342	4615 Nov 2007	Eligible – 2/1/08
Havre	Duck Inn LUST 4586	99-95049	4586 June 2007	Eligible – 2/25/08
Wibaux	Wibaux CO-OP Bulk Facility	99-95053	4608 Nov 2007	Eligible – 2/29/08
Sidney	Mitchell's Oil Field	42-06945	3523 Sept 1998	Eligible – 3/3/08
Missoula	JGL Distributing	32-10907	4562 Mar 2007	Eligible – 3/19/08 -Insurance potential

Mr. Noble moved to ratify the eligibility applications as listed. Mr. King seconded. **The motion was unanimously approved.**

Claims over $25,000

Mr. Wadsworth presented the Board with the claims for an amount greater than $25,000 reviewed since the last Board meeting. (See table below). There are four claims totaling $293,357.65.

Mr. Wadsworth pointed out that there were four errors in the table that was provided in the information packet the board received in the mail. The facility name and facility ID number for the Polson claim were incorrect. The name should read Pack Lumber and facility ID number should read 99-95008. For the Benchland Farmers Co-op claim the "Adjustments" column should read $11,285.79. The "Estimated amount to be reimbursed" column should read $6,925.29

for the Benchland Farmers Co-op claim. The total for that column should read $238,273.29. The changes are reflected in the table below.

Mr. Wadsworth provided a brief summary of the work performed for each claim. The Polson, Clyde Park and Big Arm claims all involved soil excavation. The Benchland claim included geo-probe work, monitoring and report preparation.

Location	Facility Name	Facility ID#	Claim #	Claimed Amount	Adjustments	Co-pay Met with this claim	**Estimated amount to be reimbursed
Polson	Pack Lumber	99-95008	20070906C	$90,026.79	$338.38	X	$72,188.41
Benchland	Benchland Farmers Coop	2312808	20071023C	$25,136.36	$11,285.79		$6,925.29
Clyde Park	Jones Bulk Plant	34-14022	20080215E	$48,536.07	$1,799.16		$46,736.91
Big Arm	Big Arm General Store	24-12285	20080205G	$129,658.43		X	$112,422.68
Total				$293,357.65			$238,273.29

Mr. King moved to approve the claims greater than $25,000 as presented in the table above. Mr. Hertel seconded. **The motion was unanimously approved.**

Weekly Reimbursements

Mr. Wadsworth presented to the board for ratification the summary of weekly claim reimbursement for the weeks of January 23, 2008 through March 19, 2008. (See table below). There were 234 claims, totaling $907,036.47. There were no denied or zero reimbursement claims.

WEEKLY CLAIM REIMBURSEMENTS
March 31, 2008 BOARD MEETING

Week of	Number of Claims	Funds Reimbursed
January 23, 2008	52	$151,564.29
January 30, 2008	20	$87,996.34
February 6, 2008	22	$89,384.58
February 13, 2008	14	$129,541.17
February 20, 2008	25	$99,740.10
February 27, 2008	30	$81,589.62
March 5, 2008	23	$92,104.05
March 12, 2008	20	$91,616.87
March 19, 2008	28	$83,499.45
Total	234	**$907,036.47**

Presiding Officer Cross remarked that once initial site cleanup is completed, ongoing monitoring becomes a larger portion of the expenditures made. The process remains an expensive one and efforts need to continue to find a way to control monitoring costs in light of the difficulty of obtaining any fund increases. He noted that some monitoring is being delayed, changed or suspended.

Mr. Wadsworth stated that, in an effort to help the Board control costs, the Department has changed their recommendations concerning how often monitoring must be conducted on certain sites. In addition, the Department has reduced the number of wells that are being sampled.

Mr. King remarked that there are a lot of claims for less than $1,000. He asked if, in the interest of efficiency, it be reasonable to increase minimum dollar amount that can be claimed from $200 to $1,000 or some other number.

Mr. Wadsworth indicated that if the Board would like to require that claims be a minimum of $1,000, the staff can implement that change. He suggested that the Board may want to get input from the consultant community on the matter before moving ahead.

Mr. Noble concurred in that opinion.

Ms. Michels asked why claims for similar types of work seem to be so drastically different in cost.

Mr. Wadsworth responded that he has advocated a pay by task system. Using the example of a "groundwater monitoring" event he explained that, as it currently stands some consultants will submit a separate claim for each part of a monitoring event, such as lab invoices, mobilization costs, and field work, while others group these tasks into one claim.

Mr. Noble noted that there had been discussion in previous meetings about a groundwater RBCA (risk-based corrective action) program. Other states are conducting such programs, and he asked why the State of Montana does not. If such a program were implemented in Montana, it could decrease the amount of unnecessary monitoring and allow closure of many sites. He asked for an update on the viability of a program of that kind.

The mixing zone permit concept may appear in 2009 Department legislation. The Board could support legislation that would require monitoring in a zone of natural attenuation at the edge of the property, where it mixes with uncontaminated groundwater, rather than monitoring groundwater beneath the facility itself. In addition, if it can be shown that the plume has become stable or is shrinking, change the system to cease monitoring altogether. He suggested that if the Board wished, the staff and the subcommittee could work with the department to develop legislation and bring it to the next meeting.

Sandi Olsen, Division Administrator, volunteered to meet with attorneys concerning mixing zones and bring a report back to the board. She believed that it had been decided this was not a practical way to meet the Board's solvency needs.

Ms. Blazicevich remarked that she does not believe legislation is necessary to implement the mixing zone concept. Ravalli adopted regulations requiring an easement for a mixing zone that went off the property in subdivisions.

Mr. Hertel moved to accept the weekly reimbursements as presented. Ms. Blazicevich seconded. **The motion was unanimously approved**

The Presiding Officer recessed the meeting for ten minutes at 11:26 a.m.

2009 Legislation

Mr. Wadsworth provided a summary of the proposed draft legislation. Language has been included for the following items.

1) For USTs with a permit under, and in compliance with, §75-11-509, MCA, the co-pay has been revised to be 50% of the first $50,000 and 5% of all remaining cost with a cap of $1Million

2) ASTs must be inspected and be compliant in order to have the same kind of co-pay structure as the aforementioned UST.

3) All other petroleum storage tanks (PSTs) would have the same co-pay structure, with a cost cap of $250,000. They would need to be in compliance in order to be eligible for the fund (i.e., properly notified and properly closed.)

4) A fee increase of one-quarter of one cent.

5) Removal of administrative costs, possibly to the general fund.

4) The housekeeping matters that are addressed are:

   a) Fund balance controls – raising the floor from four million dollars to six million dollars, and raising the ceiling from seven million dollars to ten million dollars.
   b) specifying that, if there are co-mingled plumes, the cap that would apply to cost reimbursement would be the one associated with the plume with the highest cap.

5) Double wall tanks will be treated the same as single wall tanks due to the Energy Policy Act of 2005.

6) Language was drafted to address the matter of insurance. The intent was to allow any insurance the owner/operator has to be attributable towards their co-pay. This would provide a financial incentive to encourage owners and operators to purchase private insurance for pollution coverage for cleanup costs associated with new releases.

Mr. Wadsworth indicated that the staff has recently been told that some homeowner policies are now covering heating oil tanks.

Presiding Officer Cross asked if Mr. Hertel felt the insurance industry would be willing and able to cover the likely co-pay amounts with private insurance.

Presiding Officer Cross noted that, with the proposed change in the co-pay structure, the owner/operator is taking on a greater burden. The Governor and Legislature may still be unwilling to increase the fee, especially in light of the current price of gasoline.

Paul Hicks addressed the Board to explain communications the staff had received from Hal Harper, of the Governor's office, concerning questions they had received from some agricultural constituents. One of the concerns expressed was directed to the proposed inspections of farm and residential heating oil tanks. The constituents do not want any further regulation. Mr. Hicks explained that the inspections are not a requirement, unless the owner/operator wants to have one million dollars of coverage. If they do not, the limit of coverage would be $250,000. Mr. Harper indicated that the Governor's office is hesitant about any fee increase. Mr. Hicks indicated that if the fee increase was not approved, the Board would continue with its obligation strategy to address the most critical environmental needs.

Presiding Officer Cross asked that Mr. Hicks prepare some information to present at the next Petroleum Marketers Association meeting to inform the owners/operators about the co-pay and coverage cap proposals in the upcoming legislation.

Tom Livers, Deputy Director of the Department, stated, with regard to the removal of the Department's administrative costs from the Fund, that he acknowledged the concept that the Petro Fund should not be the mechanism for funding regulation of tanks and releases. He indicated that the Department supported that concept and suggested that the Board staff costs be moved to the General Fund, as well. He expressed doubt that the Legislature would be willing to do so all at once, if at all, because it will result in a general fund increase.

Bill Rule, Underground Storage Tank Program, commented that the legislation as currently written will only provide $250,000 of coverage for an inactive tank.

Mr. Wadsworth told the Board that he had spoken with Ronna Alexander of the Montana Petroleum Marketers Association on the issue. Ms. Alexander had indicated to him that the Marketers felt the closure procedures that are in place generally identify any major contamination while the tank still has a million dollars of coverage, before it becomes inactive. The $250,000 would be sufficient for most residual contamination found later. In the event contamination from an inactive tank is commingled with contamination from an active tank, the million dollar cap would apply.

Todd Everts, lead staff and attorney for Legislative Environmental Quality Council and representative of the Legislative Finance Committee, told the Board that the two groups have appointed a joint subcommittee, including Sen. Storey, Rep. Dickinson, Rep. Ripley and Rep. Heinert, to look at the Board's proposals and the issues it is facing. The group will meet in early May to review the Board's proposed legislation.

Mr. Wadsworth pointed out to the Board that the proposed language removes "found" tanks from coverage by the fund, because the tank would have had to be notified. He also indicated that the current proposed language would remove only the Department's administrative costs from the Fund, saving approximately $1.4 Million.
Mr. Noble expressed concern about removing "found" tanks from the Fund. He would prefer to leave them in, because the intent of the law was to help take care of situations where an owner, who never operated a gas station, was unaware of the tank and could be stuck with significant cleanup costs. He proposed modifying the legislation to leave "found" tanks in the law, but put a cap on the amount that will be reimbursed. He also suggested increasing the time to have a found tank removed to 90 days, because the current 30 day requirement is too short a time.

Ms. Blazicevich remarked that any tank that was out of use before 1974 was not required to be notified and would still be covered by the Fund. Tanks taken out of service after 1974 were required to be notified, and if they were not, the currently proposed language would remove coverage from them. The State Superfund could be used to clean them up. She believes it is a fairness issue to not cover tanks that were not in compliance, especially if the tank owner purposely ignored the notification requirements, which she believes often occurred. The Fund should be used for those who

followed the rules, not for those who did not. It was noted that farm and residential tanks were dropped from the notification requirements in 1995.

Mr. Rule stated that the federal notification requirements became effective in 1984 and by Montana regulation in 1989. The Montana rule, effective in 1989, required that on or before May 8, 1986, the owner of a UST taken out of operation after January 1, 1974 must submit a notice of the existence of the tank, unless the owner knew the tank was removed from the ground. In 1989 the Department said if you have a tank that was in operation after 1974 you must notify it.

Ms. Olsen commented that non-notified underground storage tanks would be a very low clean up priority and would likely not be cleaned up for a very long time. In addition, the Superfund program would try to cost recover from the owner of the property

Mr. King commented that, from the perspective of the banking industry he would be inclined to keep "found" tanks in the fund, because if the bank lends to the owner, who is unaware of the tank, and it is not covered, the owner may turn the property over to the bank, who will then be liable for the clean up.

Mr. Noble emphasized that the intent of the law was to try to keep small operators in business and to try to clean up the environment using the Fund, and have flexibility to address situations as they arose. It is appropriate to reduce the cap from one million dollars, but the tanks should still be covered.

Ms. Blazicevich moved to accept the proposed language as it was presented to the Board. There was no second. The motion died.

Mr. Noble moved to accept the language as stated, with a revision to retain the language for "found" tanks (§75-11-308(1)(b)(iii), MCA in the current law), and change the closure permit requirement from 30 days to 90 days. The "found" tanks should also have a maximum reimbursement of $250,000. Mr. King seconded. Mr. King, Mr. Hertel, Ms. Michels, Mr. Michels, and Mr. Noble voted to approve the motion. Ms. Blazicevich opposed the motion. **The motion was approved.**

Paul Johnson stated that amendments proposed to §75-11-309(b) needed to be made consistent with Mr. Noble's motion as well. All members of the Board, and Mr. Wadsworth, agreed with that understanding.

Bill Hammer, as a private citizen, asked for clarification of how the proposed changes to the law will affect a resident, a small above ground heating oil tank owner. Mr. Wadsworth indicated that the co-pay responsibility would increase from 50% of the first $10,000 in eligible costs to 50% of the first $50,000 in eligible costs. In addition, the reimbursement cap would decrease from $500,000 to $250,000. He suggested the homeowner's policy on the home may have coverage on the heating oil tank.

Mr. Hammer indicated that owners of small residential tanks do not get any information, because they are not regulated. He suggested an effort be made to notify those owners of the proposed changes in the law and precautions they should take.

Fiscal Report

Mr. Wadsworth presented the fiscal report. He pointed out that the loan proceeds are reflected in the miscellaneous revenue line. There are also $146, 467 from a judgment by the district court against Federated Insurance with regard to the Conoco Pop Inn in Helena reflected in miscellaneous revenue.

He also pointed out that the regular claims payments figure of $2,795,029 does not include the $1,822,501 in claim payments paid out of the accruals. This means that claims payments through the end of February were actually $4,617,530, or about the same amount of money usually spent by this time in the fiscal year. The first loan payment on the new loan will not be made until August, 2008. Most claims are being paid in about 75 to 80 days.

Mr. King noted that the cash flow statement anticipates a negative cash flow of approximately $241,000 in May, 2008.

Board Attorney Report

Mr. Johnson presented the attorney's report. The Supreme Court affirmed the Town Pump Dillon case. This will be a good precedent for the Board.

Mr. Johnson left the meeting at 12:21 p.m.

Location	Facility	Facility # & Release #	Disputed/ Appointment Date	Status
Boulder	Old Texaco Station	22-11481 Release #03138	Eligibility 11/25/97	Dismissal Pending because cleanup of release completed.
Thompson Falls	Feed and Fuel	45-02633 Release #3545	Eligibility	Case was stayed on 10/21/99.
Eureka	Town & Country	27-07148 Release #03642	Eligibility 8/12/99	Hearing postponed as of 11/9/99.
Butte	Shamrock Motors	47-08592 Release #03650	Eligibility 10/1/99	Case on hold pending notification to Hearing Officer.
Whitefish	Rocky Mountain Transportation	15-01371 Release #03809	Eligibility 9/11/01	Ongoing discovery. No hearing date set.
Lakeside	Lakeside Exxon	15-13487 Release #03955	Eligibility 11/6/01	In discovery stage.
Helena	Noon's #438	25-03918 Release #03980	Eligibility 2/19/02	Case stayed.
Belt	Main Street Insurance	07-01307 Release #3962		Eligibility tabled 6/25/01 currently Insurance coverage
Dillon	Town Pump #1	01-08695 Release #4144	Eligibility – contested 03/07/05	On 1/22/2008 the Montana Supreme Court affirmed the Board's Decision Holding the Release to be Ineligible
Great Falls	On Your Way	07-09699 Release #3633	Adjustment to future claims	**Hearing requested 2/15/07 Awaiting identification of attorney**
Lewistown	On Your Way	14-09853 Release #3790	Eligibility contested	**Hearing requested 2/15/07 Awaiting identification of attorney**
Whitefish	Stacey Oil - Don Gray	15-04428 Release #1034	Adjustment to future claims	**Hearing requested 2/15/07 Awaiting identification of attorney**
Silver Gate	Hightower property	56-14109 Release #4274	Eligibility contested 5/29/07	**Hearing requested 5/29/07. Hearing stayed until Supreme Court rules in Dillon matter**
Havre	Cenex Supply & Marketing	21-07467 Release #826	Eligibility contested 8/14/07	**Scheduling Order signed 8/28/07. Hearing set for 7/21/08**
Kalispell	City Service West	15-02330 Release #1208	Eligibility Contested 12/6/07	**Hearing requested 12/6/07 Awaiting identification of attorney**

Board Staff Report

Mr. Wadsworth gave the board staff report. He pointed out that new eligibility applications are approximately the same for January and February 2008 as they were for the same period in 2007, with three received each month. He also mentioned that 278 claims were paid in January 2008, reflecting payout of the borrowed money.

He stated that the obligation strategy with regard to work plans seems to be working well, though there has not been enough money available to obligate anything other than priority one sites. He provided a summary table of the work plans that have not been obligated.

With regard to the fact that consultants are skirting the Board claim requirements (i.e., claims for work costing more than $25,000) by submitting multiple claims for just less than $25,000, he indicated that it would be difficult to trap the claims and roll them into one claim, using the current business process. An alternative method to keep the Board informed on what large-dollar work is being performed on a site is to have the Board review large dollar work plans before the work is

done. He asked the Board if there were any work plans about which the Board would like to have the Department provide a presentation.

The Board asked that the Department case manager provide five minute synopses of the work plans for Unocal Bulk Plant/Former Amoco LUST, Whitefish Title Service and possibly the Big Sandy water line plan that came in after the Board packet was mailed.

Petroleum Technical Section Report

Bill Hammer presented a report on the Holter Lake Lodge clean up.

Aaron Anderson presented a report on the Grain Growers and Nash Brothers release clean ups in Scobey.

Mr. Trombetta provided the PTS Report. He announced that Mr. Dan Kenney has been hired as the Petroleum Technical Section Manager as part of the Section reorganization. The Section has simplified its prioritization system in an effort to better identify the sites that need to have work complete in the short term, so that those sites can receive reimbursement from the Fund. The system is based on risks to human health and the environment.

The old Petroleum Release Section contained several programs for cleaning up contaminated sites, only some of which received money from the Board. The PR Section was reorganized to segregate those programs that are funded by the Petro Fund. Those programs are now administered by the PT Section.

The Section has also evaluated sites to see if monitoring can be reduced, either by monitoring fewer wells, monitoring less often, or both. Risk Based Corrective Action has been updated. In Montana risk that is evaluated includes human health and groundwater. Sites cannot be closed until all water meets state standards (DEQ-7). Risk Based Screening Levels have been revised for some of the constituents in petroleum, lowering some.

The Section has hired two employees and three interns to try to evaluate low priority sites to see if any of them can be closed, with the new RBSLs.

Ms. Olsen indicated that the Department is developing a pilot program to streamline long term monitoring in communities. The idea is to try, on a voluntary basis, to have most or all of those sites in a particular community hire one consultant to conduct the monitoring for the whole area at one time. It is hoped that this would allow time and cost savings.

The Department is also looking at upgrading its database system, with funds coming from the general fund, if the project is approved.

Public Forum

There were no comments from the public

The meeting adjourned at 2:16 p.m.

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Greg Cross – Presiding Officer